

South African civil society groups head to court to advance comprehensive social protection

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On 27 July, a group of civil society organizations in South Africa [launched](#) a major social security litigation that has the South African government's Ministry of Social Development the South African government and the South African Social Security Agency (SASSA) as its respondents. The action aims to advance the constitutional right to social assistance for all, by compelling the government to address serious issues of exclusion and erosion in a vital pandemic-era cash transfer scheme.

The litigation is part of broader efforts to secure a universal basic income in South Africa.

The applicants in the case are the [Institute for Economic Justice](#) (IEJ), a progressive policy institute based in Johannesburg, and [#PayTheGrants](#), a grassroots advocacy network dedicated to the realization of the right to social protection in South Africa. The organizations are both members of South Africa's Universal Basic Income Coalition (UBIC).

In addition, 79 individuals affected by unlawful exclusion from the transfer in question have furnished supporting affidavits detailing their experiences. The applicants are represented by the [Socio-Economic Rights Institute](#) (SERI).

The "COVID-19 Social Relief of Distress" (SRD) grant is one of the few surviving COVID-19 emergency social protection schemes worldwide. It provides R350 (equal to 53% of the extreme poverty, or 'food poverty' line) to people aged 18-59 who have monthly income below the extreme poverty line.

People in this age group do not have access to any other non-contributory social assistance, despite an unemployment rate of 42.4% (including discouraged work seekers), and [over](#) 30% of adults in South Africa having no income.

The SRD grant has been a critical bulwark against hunger, and is [estimated](#) to have prevented 2-2.8 million people falling into food poverty in 2020 and 2021.

The grant has been extended several times and is now widely accepted to be *de facto* permanent, while government [works on plans](#) to transition it into a more extensive "basic income grant". This is very welcome news to the large academic and civil society community that has long advocated for basic income or universal basic income in South Africa.

However, the SRD has been plagued by exclusion errors and administrative injustice, and these issues risk being carried over and institutionalized in a future basic income grant.

The SRD has faced a funding squeeze from the National Treasury over the last several years. Due to inadequate budget, the Department of Social Development has been forced to find ways to exclude millions of otherwise eligible people from receiving the grant. The most conservative estimates put the number of people eligible at around 16 million. However, the grant is only funded for 8.5 million recipients per month.

The court application challenges [multiple complex drivers of exclusion](#) from the grant, including the online-only application process; the overbroad definition of income for the purpose of means-testing; the use of inaccurate and invasive systems for verifying income; and restrictions on peoples' ability to meaningfully appeal rejections.

In addition, the application challenges the real-terms erosion in both the value of the grant, and the means-test threshold since 2020. The South African constitution requires the government to progressively realize the right to social assistance for all who are unable to support themselves and their dependents. We argue that this erosion in fact constitutes an unconstitutional retrogression of the right to social assistance.

The value of the grant has fallen about 16% in real terms since 2020 based on headline CPI inflation. However, given that 93% of SRD recipients use their grant to purchase food, the more appropriate measure of erosion is food inflation. Taking into account food inflation, the grant has been eroded by 22%.

In addition to calling for the striking down of unlawful regulations, the applicants ask the Court to instruct the Department of Social Development to devise a plan to immediately correct the retrogression in both the grant value and the income threshold, and to progressively increase the value and threshold to bring the grant in line with the constitutional requirement to meet the basic needs of all those who are unable to provide for themselves.

While the case challenges a number of complex issues in the administration of a specific social protection measure in South Africa, we also aim to influence social protection policy with a view to securing the right of everyone in South Africa to a basic level of social assistance—a basic income grant. We hope that this case can set a valuable international precedent in advancing socio-economic rights, including with respect to budget processes.

The full founding papers are available [here](#), and a synopsis of the case can be found [here](#).